

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

ANGELO JOSEPH,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-13957/
A-13958

Trial Case No. 3AN-18-09153CI; 3AN-21-06712CI

NOTICE OF SUPERIOR COURT DECISION

VRA AND APP. R. 513.5 CERTIFICATION

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court. I further certify, pursuant to App. R. 513.5, that the font used in this document is Arial 12.5 point.

This court has accepted two appeals lodged by the Alaska Public Defender Agency on behalf of Angelo Joseph, holding in abeyance various motions filed by the agency pending a trial court decision on a Civil Rule 60(b) motion filed in Mr. Joseph's 2018 civil case. The agency notifies this court that the trial court has rejected the agency's Rule 60(b) motion for filing, stating that the agency "has no authority to represent Mr. Joseph in what is effectively a fourth application for post-conviction relief." The court directed Mr. Joseph to file any motions relating to postconviction relief "himself or through privately-obtained counsel."¹ A copy of the trial court's order is attached.²

¹ The agency is advising Mr. Joseph of the trial court's order, and it will provide Mr. Joseph with another copy of the motion the agency filed on his behalf for him to file on his own in the trial court.

² This court's order directs the superior court to provide this court with a copy of its decision, but the superior court's certificate of service does not indicate it did so.

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Because the trial court refused to consider the agency's Civil Rule 60(b) motion, which established that Mr. Joseph did not receive the assistance of counsel the superior court determined he needed in 2018, the agency asks this court to grant its motions and appoint Mr. Joseph counsel to litigate the right provided to him in *Grinols* to challenge the effectiveness of the lawyer who represented him in his first application for postconviction relief.

ALASKA PUBLIC DEFENDER AGENCY

DATE April 29, 2022

Renee McFarland
RENEE McFARLAND (0202003)
DEPUTY PUBLIC DEFENDER

I certify that on April 29, 2022 a copy of this document and its attachments was faxed/mailed/hand-delivered to: Eric Ringsmuth (OCA)

By: SB

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

ANGELO JOSEPH,

Applicant,

vs.

STATE OF ALASKA,

Respondent.

Case No. 3AN-18-09153CI

ORDER REJECTING APPLICANT'S MOTION FOR FILING

Angelo Joseph, by and through the Public Defender Agency ("PDA"), filed a Motion for Relief from Judgment dismissing his 2018 post-conviction relief ("PCR") application.

The procedural history is as follows:

- In 2011, Angelo Joseph filed an initial PCR application alleging ineffective assistance of counsel. That Superior Court denied the application. Joseph appealed the denial and the Court of Appeals affirmed in 2020.
- In 2018, Joseph filed a second PCR application, alleging ineffective assistance of counsel of his first PCR counsel. The court dismissed the application for failure to comply with Criminal Rule 35.1(e). Joseph did not appeal the dismissal.
- In 2021, Joseph filed a third PCR application, again alleging that counsel had been ineffective during his first application for post-conviction relief. The


Superior Court dismissed the application on the grounds that Joseph had already filed two *Grinols*' applications and the 2021 application was untimely. Joseph now files a Motion for Reconsideration of the dismissal of the 2018 PCR application, alleging ineffective assistance of Joseph's second PCR counsel.

The Public Defender Agency, which was never reappointed to Mr. Joseph after his 2018 and 2021 PCR applications were dismissed, has no authority to represent Mr. Joseph in what is effectively a fourth application for post-conviction relief. Accordingly, to the extent that Mr. Joseph wishes to file any motions relating to post-conviction relief, he must do so himself or through privately-obtained counsel.

Because the PDA has no authority to represent Mr. Joseph on the matter at hand, the Court REJECTS the Motion for Relief from Judgment for filing.

IT IS SO ORDERED.

DATED at Anchorage, Alaska this 20th day of April, 2022.


ERIC A. AARSETH
Superior Court Judge

I certify that on 20th April 2022, a copy
was mailed to:

DA / PD
Rebekah Kopplin, Law Clerk
